

EXHIBIT B

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1 we have not had a full opportunity to explore.

2 THE COURT: Because you're going to -- for
3 example, as to the Work for Hire agreement you're
4 going to put a document request out on
5 Mr. Zuckerberg for a copy of that contract, is that
6 it?

7 MR. BOLAND: We think Mr. Zuckerberg needs
8 to come forward with the copy of the contract he
9 has or --

10 THE COURT: He said he doesn't have any
11 such contract under oath.

12 MR. BOLAND: He said he never --

13 THE COURT: Because he never signed such a
14 thing.

15 MR. BOLAND: If you read his declaration,
16 your Honor, he says I never signed an agreement
17 involving Facebook. We want him to be deposed and
18 explain what -- through discovery, did he sign the
19 two-page document that is the authentic contract?
20 Hand it to him with gloves on and ask him to say.
21 He's never said that. They made a representation
22 in their motion that he did. If you look at the
23 reference, it's Mr. Snyder saying that he, you
24 know, did or did not or we're not sure.
25 Mr. Zuckerberg has to come in and say I didn't sign

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1 it. So far -- and I'm talking about the specific
2 document that my client's alleging is the actual
3 contract.

4 THE COURT: Somehow I recall a declaration
5 to the effect that what you purport -- what
6 plaintiff purports is the actual contract, i.e. the
7 Work for Hire contract was never signed by
8 Mr. Zuckerberg. I don't know why I'm recalling
9 that.

10 MR. SNYDER: You're correct, your Honor.

11 MR. BOLAND: My recollection of the
12 declaration --

13 THE COURT: At my age, who knows. It's
14 possible that I'm not as sharp as I should be.

15 MR. BOLAND: A clearer declaration would
16 be an exhibit during a deposition where he is
17 handed with gloves on the actual two-page document
18 and says once and for all, I did not sign that
19 page 2. That's not -- that is not the contract I
20 signed. He has not done that yet. In fact, he has
21 not even said that the -- under oath, that the
22 document attached to the Kole email is the contract
23 that he signed. They have offered no experts, no
24 experts to declare that that document is the
25 authentic document. That's an important omission

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1 (Off the record discussion.)

2 MR. BOLAND: Your Honor, there's one other
3 expert we've had review Stroz Friedberg's report,
4 not in total, but have gone over it to try to find
5 some of the conclusions, that's Silent is the name
6 of the company that's already been involved in this
7 case. They have imaged some media a long time ago.
8 And then there's one other expert we haven't yet
9 disclosed. It's purely a consulting expert that
10 has evaluated it. So we will be disclosing them at
11 some point if we intend to use them.

12 But my point is, your Honor, that's just the
13 experts. There's more in this motion than just
14 experts. You just pointed out when did Facebook
15 start? Mr. Zuckerberg has never declared what
16 document he signed or didn't sign under oath. Is
17 it the StreetFax digital image that he signed, and
18 is he going to declare that he didn't sign the
19 contract that he has with my client? He has now
20 put that that issue --

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1 don't need a deposition, do we?

2 MR. BOLAND: Yes, we do --

3 THE COURT: Why?

4 MR. BOLAND: -- because we have a right to
5 get all these things under oath, not only these
6 issues here --

7 THE COURT: Well, if it comes in a
8 declaration under oath, what's wrong -- that's a
9 simple fact, isn't it?

10 MR. BOLAND: That is, your Honor. But
11 there's wider facts than that. They have based
12 their motion to dismiss --

13 THE COURT: That's one thing, we don't
14 need to depose Zuckerberg on that issue.

15 MR. BOLAND: We don't, but there's no need
16 to get a declaration from him on it either, because
17 there's a ton of stuff that he has to be deposed
18 on. The emails to begin with. Where are all the
19 computers he used in 2003 and 2004? They've made
20 claims that these emails between him and my client
21 don't exist. Mr. Zuckerberg needs to declare what
22 computers he used during that time to interact with
23 the Harvard server. And we have to analyze the
24 Harvard server to determine if that's even true.

25 THE COURT: Excuse me, how could that

1 provided any authority that says so.

2 MR. BOLAND: In the brief that we provided
3 had every federal case which has dealt with
4 Rule 1008, and they all clearly say -- they don't
5 qualify it. They don't say, well, if you challenge
6 it with a lot of experts, now the judge can step
7 in. It doesn't say that. They want you to extend
8 it to that. They want you to extend it to 1008
9 means, if you challenge the authenticity but with a
10 really big stack of paper, now the judge can take
11 it out of the jury's hands. That's the case law --
12 that's the order they want you to write. That's
13 the law they want you to establish.

14 THE COURT: Well, I mean it is a clear and
15 convincing standard that we have to apply, correct?

16 MR. BOLAND: It is, and we are entitled,
17 in fairness, to rebut the clear and convincing
18 standard with as wide a discovery as necessary to
19 go at every issue they raised. That's why deposing
20 Mr. Zuckerberg is critical. He has to say under
21 oath answers to all this. Again, imagine he says
22 under oath, here's the date and time Facebook went
23 live. But his computers held by Parmet say no, no,
24 it went live two weeks earlier. That's a
25 credibility issue which we wouldn't want the Court

1 to rely on some news report as opposed to the
2 comparison of an individual who has admitted
3 committing forgeries and frauds himself,
4 Zuckerberg, with regard to this company and its
5 business records under oath. That's the person
6 we're talking about.

7 And so it is not defamatory for me to say I'm a
8 little concerned that Mr. Zuckerberg's statement
9 about when he started Facebook might not be
10 accurate perhaps from his memory or perhaps for
11 some other reason, but the computers will tell us
12 everything that was going on then. Does he have
13 emails there? Computers will tell us. When did
14 Facebook go live? The computers will tell us.

15 THE COURT: You're talking about the
16 computers in the other -- in the Boston lawsuit
17 that you didn't know about before.

18 MR. BOLAND: Yes, sir, because they're
19 arguing --

20 THE COURT: I understand.

21 MR. BOLAND: -- the emails that my client
22 sent in both '03 couldn't have been sent. Well,
23 we'll know for sure once we look there now we,
24 won't we? We'll have a better clue.

25 THE COURT: You'll want those downloaded

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1 challenge it, but we should be entitled to a
2 dismissal on that basis, even though we've ruined
3 the document for you to rebut us.

4 And that's something else that we'll bring up
5 in our response after our reasonable period of
6 discovery is that there's a fairness issue with us
7 being able to rebut certain things they argue
8 because they damaged the key evidence in the case.

9 If you have no further questions, your Honor,
10 that's all I had to say.

11 THE COURT: Thank you. Well, I think
12 we're going to -- did you want to respond to that,
13 Mr. Snyder, briefly? Anything?

14 MR. SNYDER: I have nothing further to
15 say, your Honor.

16 THE COURT: Okay. We're going to grant
17 the motion in part and deny it in part. We're
18 going to stay general discovery, but permit a
19 limited period of expert discovery for the
20 plaintiff and the defendants.

21 I'll give the plaintiffs 60 days to depose
22 defendants' experts to prepare an opposition to the
23 motion to dismiss. And then how much time after
24 that would you need to file your written response,
25 including your reports?

1 MR. BOLAND: Your Honor, 60 days.

2 THE COURT: Sixty days?

3 MR. BOLAND: Yes.

4 MR. SNYDER: My question is, your Honor --
5 and we put this in our papers. We welcome expert
6 depositions. Certainly we think more in the record
7 the better in terms of our expert reports. So,
8 what we said in our papers is that if your Honor
9 was inclined to give expert discovery, that we
10 think it's appropriate for them to give us their
11 expert reports presumably before those depositions
12 so that we have -- that's the normal procedure that
13 you exchange expert reports before depositions so
14 that our experts have an opportunity to read and be
15 prepared to respond to. Otherwise, they're going
16 to be asked 400 questions at a deposition about
17 technical tests and other things that our experts
18 won't have a chance to study or respond to.

19 So if the goal here is to provide your Honor
20 with the best information, as opposed to some
21 ambush, then the best procedure we believe is that
22 they give us their expert reports responding to our
23 expert reports, they depose our experts, we can
24 depouse their experts. Certainly we should have the
25 opportunity to depouse their experts. And then they